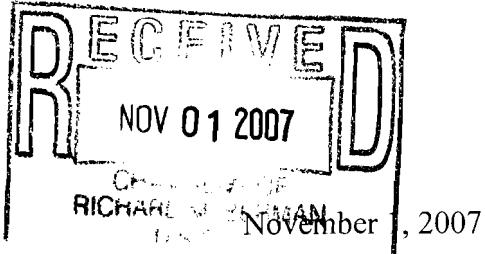


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## MEMO ENDORSED

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Adjudicated to 3/31/08  
with preliminary at 9:30 a.m.

BY HAND

Honorable Richard M. Berman  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St., Room 1970  
New York, NY 10007

SO ORDERED:

Date: 11/1/07

*Richard M. Berman*  
Richard M. Berman, U.S.D.J.

Re: *Grunstein et al. v. Silva et al.*, 07 Civ. 3712 (RMB) (RLE)

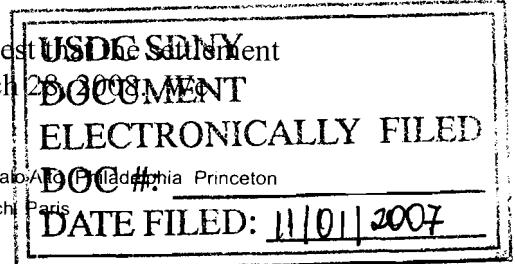
Dear Judge Berman:

We are counsel to defendants in the above captioned case, which has been assigned to Magistrate Judge Ellis to supervise discovery. Judge Ellis informed the parties yesterday that their mutual request to extend the discovery cut-off deadline to March 28, 2008 has been granted. In that regard, Judge Ellis asked the parties to address directly with your Honor the issue of whether the settlement conference currently set for December 3, 2007 with your Honor should be re-scheduled to a date closer to the new discovery cut-off.

We understand that your Honor's customary practice is to convene a settlement conference shortly after the close of discovery. Defendants believe that practice should be followed in this case for at least two reasons. First, defendants' motion to dismiss the complaint, which is based on the absence of subject matter and personal jurisdiction, as well as other grounds, is currently *sub judice*. Defendants believe your Honor will grant that motion, and that, in all events, the ability of the parties to assess settlement will be greatly enhanced with the benefit of your Honor's decision. Second, while the parties have made significant progress in discovery to date, much remains to be completed. In particular, depositions of most of the key witnesses have not yet been conducted. Naturally, the parties will be in a superior position to assess their respective positions on the merits once such discovery is completed.

For these reasons, defendants respectfully request that the settlement conference be re-scheduled to a date shortly after March 28, 2008.

U.S. Austin Boston Charlotte Harrisburg Hartford New York Newport Beach Palo Alto Philadelphia Princeton  
San Francisco Washington DC EUROPE Brussels London Luxembourg Munich Paris



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Honorable Richard M. Berman  
November 1, 2007  
Page 2

understand that plaintiffs oppose this request, and will separately address the Court as to their position.

Respectfully yours,

  
Joseph F. Donley

JFD/dj

cc: Judge Ronald L. Ellis (by hand)  
Joseph Escher, Esq. (by email)  
Martin Stein, Esq. (by email)  
Ron S. Kaufman, Esq. (by email)